

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

GERALD MINER,)
)
)
Movant,) No. 4:12-CV-2200-JCH
)
)
v.))
)
UNITED STATES OF AMERICA,)
)
)
Respondent.))

MEMORANDUM AND ORDER

This matter is before the Court on Gerald Miner's motion to vacate, set aside, or correct his sentence under 28 U.S.C. § 2255.

Movant challenges his October 13, 1995 conviction and subsequent sentence in *United States v. Miner*, No. 4:95-CR-137-JCH (E.D. Mo.), on the ground of ineffective assistance of counsel during plea negotiations.

The Court's records show that movant has already filed, and the Court has already decided, three previous § 2255 motions attacking this conviction. *See Miner v. United States*, No. 4:07-CV-1878-JCH (E.D. Mo); *Miner v. United States*, No. 4:98-CV-861-JCH (E.D. Mo); *Miner v. United States*, No. 4:98-CV-1708-JCH (E.D. Mo).

As amended by the Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA"), 28 U.S.C. § 2255 now provides that a "second or successive motion must be certified . . . by a panel of the appropriate court of appeals" to contain certain information. Title 28 U.S.C. § 2244(b)(3)(A) provides that "[b]efore a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application."

Because movant did not obtain permission from the Eighth Circuit Court of Appeals to maintain the instant § 2255 motion in this Court, the Court lacks authority to grant movant the relief she seeks. As such, the instant action will be summarily dismissed, without prejudice.

Therefore,

IT IS HEREBY ORDERED that the instant motion to vacate is **DENIED**, without prejudice, because movant did not obtain permission from the Eighth Circuit Court of Appeals to bring the motion in this Court. *See* 28 U.S.C. § 2255.

A separate Order of Dismissal shall accompany this Memorandum and Order.

Dated this 14th day of December, 2012.

/s/Jean C. Hamilton
UNITED STATES DISTRICT JUDGE